

Message Text

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ACTION NEA-10

INFO OCT-01 AF-10 EUR-12 ISO-00 SP-02 ICA-11 AID-05
EB-08 NSC-05 TRSE-00 SS-15 STR-07 OMB-01 CEA-01
CIAE-00 COME-00 FRB-03 INR-10 NSAE-00 XMB-02
OPIC-03 LAB-04 SIL-01 DODE-00 PM-05 H-01 L-03
PA-01 JUSE-00 /121 W
-----091039 142038Z /21

R 141829Z AUG 78 ZFD
FM AMEMBASSY CAIRO
TO SECSTATE WASHDC 2592
INFO AMEMBASSY ABU DHABI
AMCONSUL ALEXANDRIA
AMEMBASSY ALGIERS
AMEMBASSY ATHENS
AMEMBASSY AMMAN
USINT BAGHDAD
AMCONSUL DHAHRAN
AMEMBASSY DOHA
AMEMBASSY JIDDA
AMEMBASSY KHARTOUM
AMEMBASSY KUWAIT
AMEMBASSY MANAMA
AMEMBASSY MUSCAT
AMEMBASSY RABAT
AMEMBASSY SANA
AMEMBASSY TRIPOLI
AMEMBASSY TUNIS
AMEMBASSY TEL AVIV

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E.O. 11652: N/A
TAGS: ETRD, US, EG
SUBJ: IMPACT OF ANTI-BOYCOTT LEGISLATION

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REF: STATE 194719

1. IT IS DIFFICULT TO MEASURE DIRECT IMPACT ON TRADE WITH
EGYPT OF U.S. "ANTI-BOYCOTT" LEGISLATION. THIS SHOULD NOT
NECESSARILY BE TAKEN TO MEAN, HOWEVER, THAT EFFECT HAS
BEEN NON-EXISTENT OR NEGLIGIBLE, EVEN THOUGH A LARGE
PROPORTION OF U. S. TRADE IS FINANCED BY USG UNDER

CONCESSIONAL TERMS WHICH GENERALLY PRECLUDE APPLICATION OF BOYCOTT REQUIREMENTS. BOYCOTT LANGUAGE CONTINUES TO APPEAR IN MANY GOE TENDERS. INHIBITING EFFECT ON PARTICIPATION BY U.S. FIRMS IN BIDDING ON TENDERED PROJECTS PROBABLY IS SUBSTANTIAL, DESPITE FACT THAT GOE HAS DECLARED ITSELF WILLING TO IGNORE OR ELIMINATE SUCH LANGUAGE IN SPECIFIC INSTANCES. PRESUMABLY, FIRMS ARE CONCERNED, INTER ALIA, ABOUT POSSIBILITY OF BEING REQUIRED TO FORFEIT BID BOND (IF IT PROVED IMPOSSIBLE TO WORK OUT ACCOMMODATION WITH GOE ON A BOYCOTT-RELATED REQUIREMENT), ALTHOUGH WE DO NOT KNOW OF ANY ACTUAL CASE IN WHICH SUCH FORFEITURE HAS OCCURRED.

2. AS DEPARTMENT AWARE FROM OUR PREVIOUS REPORTING, EMBASSY HAS HAD NUMEROUS DISCUSSIONS WITH GOE OFFICIALS ABOUT QUESTION OF LANGUAGE PERMITTED UNDER RECENT U. S. LEGISLATION TO BE USED IN COMMERCIAL DOCUMENTS. AMONG ASPECTS OF U. S. LAW WHICH HAVE PRODUCED CONFUSION IN MINDS OF OFFICIALS IS FACT THAT NEGATIVE LANGUAGE IS NOT PERMITTED IN CERTIFICATE OF ORIGIN CLAUSE AND BENEFICIARY OF LETTER OF CREDIT MAY NOT AGREE TO ANODYNE (IN EGYPTIAN VIEW) REQUIREMENT THAT SHIP ON WHICH GOODS ARE CARRIED BE PERMITTED TO ENTER COUNTRY'S PORTS, WHILE AT SAME TIME NEGATIVE CERTIFICATION, IF CAREFULLY DRAWN, IS ACCEPTABLE IN SHIPPING CLAUSE. RESTRICTIONS ON EMBASSY ABILITY TO SUGGEST TO GOE SPECIFIC LANGUAGE LIMITED OFFICIAL USE

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OR FORMULATION WHICH WOULD CONFORM WITH U. S. LAW HAS HELPED COMPOUND CONFUSION. LETTERS OF CREDIT IN EGYPT STILL APPEAR WITH UNACCEPTABLE LANGUAGE, AND, ALTHOUGH WE KNOW OF INSTANCES IN WHICH BOYCOTT RELATED CLAUSES HAVE BEEN ALTERED OR DELETED AT REQUEST OF ONE OF PARTIES TO TRANSACTION, EVEN POSSIBILITY OF UNACCEPTABLE LANGUAGE BEING INCLUDED HAVE A DISCOURAGING EFFECT ON TRADE.

3. WITH RESPECT TO OTHER MATTERS NOTED PARA 4 REFTEL, WE OFFER FOLLOWING COMMENTS, KEYED TO SEQUENCE OF QUESTIONS POSED THEREIN:

(A) SEE PARAGRAPHS 1 AND 2 ABOVE.

(B) IN SPECIFIC INSTANCES, GOE HAS SHOWN CONSIDERABLE FLEXIBILITY ABOUT ADJUSTING ITS REQUIREMENTS FOR CERTAIN BOYCOTT-RELATED FORMALITIES. IT SHOULD NOT BE FORGOTTEN, HOWEVER, THAT ARAB BOYCOTT REMAINS THE LAW OF THE LAND. GOE IS CONCERNED ABOUT SEEMING TO GET TOO FAR OUT AHEAD OF FELLOW ARAB STATES ON BOYCOTT MATTERS.

(C) AS FAR AS WE AWARE, UNILATERAL SELECTION IS NOT BEING

USED BY GOE AS WAY OF RESPONDING TO RESTRICTIONS OF U.S.
LEGISLATION.

(D) WE HAVE NO EXAMPLES TO CITE, BUT ONE WOULD CERTAINLY
EXPECT THIS TO BE THE CASE. LARGER FIRMS CAN MORE EASILY
AFFORD EXTENSIVE, EXPENSIVE LEGAL ADVICE TO HELP
ENSURE FIRM REMAINS IN COMPLIANCE WITH COMPLEX
LAW. MOREOVER, GOVERNMENTS OF BOYCOTTING COUNTRIES ARE
LIKELY TO BE MORE RESPONSIVE TO A MAJOR WELL-KNOWN FIRM
WHEN ASKED, FOR EXAMPLE, TO MAKE AN EXCEPTION TO SOME
BOYCOTT-RELATED REQUIREMENT.

(E) WE HAVE SO FAR SEEN NO LOCAL REACTION.

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(F) WE HAVE NO SPECIFIC EVIDENCE ON POINT, BUT
RESTRICTIONS OF U. S. LAW OBVIOUSLY MAKE AMERICAN COMPANIES
VULNERABLE. WHETHER OR NOT REQUESTS FOR SUCH INFORMATION
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ARE STIMULATED BY ACCUSATIONS OF COMPETITORS, FACT THAT
U. S. FIRMS MAY BE PLACED ON BOYCOTT LIST BECAUSE OF
INABILITY TO RESPOND TO BOYCOTT OFFICE INQUIRIES IS IN
OUR VIEW LIKELY TO BE ONE OF MAJOR NEGATIVE CONSEQUENCES
OF RECENT U. S. LEGISLATION.

(G) ONE WOULD EXPECT THIS TO BE THE CASE, ALTHOUGH WE
CANNOT CITE SPECIFIC EXAMPLES HERE.

(H) WE ARE NOT AWARE OF ANY IMPACT.

(I) WE COULD NOT, FROM OUR PERSPECTIVE, SET DOLLAR
FIGURE ON EXPORT EFFECT OF LEGISLATION.

4. EMBASSY BELIEVES DEPARTMENT'S ATTEMPT TO ASSESS
TRADE IMPACT OF U. S. ANTI-BOYCOTT LEGISLATION IS A
USEFUL EFFORT. QUANTIFICATION OF IMPACT IN EGYPT,
HOWEVER, WILL BE A DIFFICULT TASK, AND CIRCUMSTANCES
ARE SUCH THAT THERE APPEARS TO BE LIKELIHOOD OF ESTIMATES
POSSIBLE AT THIS TIME GREATLY UNDERSTATING THE ACTUAL
EFFECT. SOME OF QUESTIONS POSED PARA 4 REFTEL COULD
APPROPRIATELY BE ADDRESSED TO HOME OFFICES OF U. S. FIRMS,
AND WE ASSUME THIS APPROACH IS ALSO BEING PURSUED.

5. THIS MESSAGE COORDINATED WITH AMCONSUL ALEXANDRIA.
EILTS

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Message Attributes

Automatic Decaptioning: X
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Disposition Approved on Date:
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